

HUMAN SERVICES BOARD

INTRODUCTION

DISCUSSION

Sometime thereafter the petitioner's "family" (otherwise unidentified) applied for Medicaid/Choices for Care to cover

his continuing stay in the nursing home. An assessment of the petitioner's needs was completed (presumably with the cooperation and participation by the Veterans Home) in March 2009. On April 2, 2009 the Department sent a notice to the petitioner that his application for Choices for Care had been denied due to his lack of continuing need for skilled nursing care.

By letter dated April 7, 2009 the administrator of the Veterans Home filed an appeal in the petitioner's behalf. In her letter the administrator noted that "as of the date of the notice, we concur with the (Department's) determination", and that "we are actively seeking alternative arrangements for this challenging placement". The letter went on to state: "However, his clinical condition during his stay at the Home does warrant coverage from Medicaid. He was extremely ill, requiring substantial clinical interventions throughout his stay. The Home should not be penalized for successfully improving the medical condition of its residents."

The record reflects that the Home's administrator and other staff and the petitioner participated in a Commissioner review hearing on May 11, 2009. In upholding the Department's initial decision the reviewer, in his own

decision dated June 12, 2009, noted that neither the petitioner nor the Home was appealing the petitioner's eligibility for Choices for Care, at least as of the date of the initial decision. The reviewer found that in light of that decision the Home had not "met its obligation to seek an appropriate placement" for the petitioner. There is no indication in the reviewer's decision that the petitioner or the Home presented any evidence that the petitioner's condition warranted that he be found eligible for Choices for Care *prior* to April 2009.

The petitioner appealed this decision on August 18, 2009. A telephone status conference was held on September 2, 2009. The participants included the petitioner, the Veterans Home's administrator, and DAIL's attorney. The parties informed the hearing officer that the petitioner had been discharged from the skilled nursing part of the Veterans Home on June 30, 2009. The parties agreed to inform the Board as to dates when they would be available for hearing on the issue of the petitioner's eligibility for Choices for Care prior to that date. The Veterans Home indicated that it felt the issue was the sufficiency of its efforts to find an alternative placement for the petitioner prior to the date of its discharge.

Hearing nothing from the parties after the status conference the Clerk of the Human Services Board inquired of Department's counsel on October 26, as to the status of the matter. On November 3, 2009 the Clerk spoke with the petitioner by phone who indicated he still wanted the matter to go forward. On November 19, 2009 the Department's attorney requested that the matter be set for another status conference in order to set a date for hearing.

On December 16, 2009 the Board notified the parties, including the Veterans Home's administrator, that a telephone status conference would be held in the matter on January 12, 2010. On that date the hearing officer was unable to reach either the petitioner or the Home's administrator at the telephone number they had provided to the Board. On January 14, 2010, the Department filed a Motion to Dismiss. To date, the Board has not heard anything in response for the petitioner or the Veteran's Home.

ORDER

The petitioner's appeal is dismissed for failure to prosecute. Fair Hearing Rule No. 1000.3L.

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